

ORDER TO COMPEL

COPY

AN ORDER to compel the Hardin Water Supply Corporation to terminate water utility Service to customers for nonpayment of Sewer utility service provided by City of Hardin in Liberty County, Texas; Docket No. 2006-0595-UCR

On March 28, 2007, the Texas Commission of Environmental Quality ("Commission" or "TCEQ") considered the petition of City of Hardin ("the City") for an order to compel the Hardin Water Supply Corporation ("Hardin WSC") to terminate water utility service for nonpayment of sewer utility service in Liberty County in accordance with the requirements of 30 Texas Administrative Code (TAC) 291.88(e).

- a. City of Hardin is a retail public utility that supplies sewer service in Liberty County. City of Hardin is authorized by the TCEQ to provide such service pursuant to the authority granted in Certificate of Convenience and Necessity ("CCN") No. 20950.
- b. City of Hardin has obtained funding through the State or Federal government for the provision, expansion or upgrading of sewer service.
- c. Hardin WSC provides retail water utility service in Liberty County pursuant to CCN No. 11270.
- d. Hardin WSC provides water utility service to many of City of Hardin's customers ("Affected Customers").
- e. City of Hardin is experiencing losses due to uncollected revenue.
- f. City of Hardin requested that Hardin WSC enter into an agreement to terminate water service for the nonpayment of sewer utility service and the parties have been able to negotiate an agreement on this issue.
- g. An Order approving a process for the termination of water utility service for nonpayment of sewer utility service by the Affected Customers has been agreed to by the parties in this matter.

WHEREAS, the Commission has Jurisdiction to consider this matter with continuing Jurisdiction to modify this Order before the Commission upon petition or request of the parties in

this matter and is authorized to make and enter this Order in accordance with Texas Water Code Sections 13.041(b) and 13.250(b).

WHEREAS, the Commission's findings are sufficient to allow the issuance of this Agreed Order under 30 TAC 291.88(e).

NOW, THEREFORE, BE IT ORDERED BY THE TEXAS COMMISSION ENVIRONMENTAL QUALITY THAT:

1. An Agreed Order to compel Hardin WSC to terminate water utility service for nonpayment of sewer utility service is hereby approved and granted.
2. Delinquent Customers. This Order is valid for the purpose of terminating an Affected Customer's water utility service for nonpayment of sewer utility services owed to City of Hardin. 30 TAC 291.88(a)(2).
3. Subject to the provisions of 30 TAC 291.88, the parties must use the following process in order to terminate water utility service for nonpayment of sewer utility service:
 - A. Notice to Delinquent Customers. After proper notice to its delinquent customers, City of Hardin may initiate procedures for the disconnection of water service. The notice to delinquent customers must comply with 30 TAC 291.88(a)(1).
 - B. Disconnection. Prior to the intended date of disconnection described in 30 TAC 291.88(a)(1)(D), City of Hardin shall notify Hardin WSC in writing of any customer account that requires disconnection of water service of nonpayment of sewer utility services by providing the address of the delinquent account and the intended date of disconnection. In order to avoid unnecessary disconnection of water service, City of Hardin shall provide immediate notice to Hardin WSC when a delinquent customer has paid all of its past-due charges prior to the intended date of disconnection and that City of Hardin is no longer requesting disconnection. Prior to disconnection of water service, City of Hardin shall pay Hardin WSC the cost of disconnecting the water service in an amount not to exceed Hardin WSC's established disconnection fee.
 - C. Reconnecting. If water service is disconnected for nonpayment of sanitary sewer service charges, except as otherwise required by law or as agreed to by City of Hardin, Hardin WSC shall not provide water services to that customer until City of Hardin notifies Hardin WSC that it has received payment of all delinquent

sewer collection charges, plus any applicable charges which are then collectible in accordance with City of Hardin's tariff or other applicable law. Hardin WSC may not charge the customer a reconnect fee prior to reconnection unless it is for nonpayment of water service charges in accordance with its approved tariff. Hardin WSC shall receive a reconnection charge of Thirty Dollars payable from the City of Hardin within a reasonable time after reconnection. Hardin WSC must follow the service restoration procedures provided in 30 TAC 291.88(h) of the Texas Administrative Code.

- D. Effect on Provision of Water. This Order shall not affect or impair Hardin WSC's rights and obligations with respect to its customers or the provision of water utility services, except as specifically set forth in this Order and as allowed by law.
- E. Purpose of Order/Indemnity. This Order is made for the purpose of facilitating the collection of fees for sanitary sewer services provided by City of Hardin. No partnership or joint venture is intended to be created hereby. Hardin WSC's sole responsibility is that of complying with the Order issued by TCEQ and that of City's agent for disconnection of utility service, the City is to indemnify, defend, and hold Hardin WSC harmless for, any damage, claims, or causes of action arising from:
 - i. the construction, operation, maintenance, and repair of the sewer collection system;
 - ii. the provision of sewer collection service;
 - iii. any act or omission relating to such services;
 - iv. damage to water meters and locks that may result after disconnection of a water meter from the nonpayment of sewer services.
- F. Commencement. The effect of this order shall commence after the first billing date which includes service provided on the date that this Order is issued.
- G. Automatic Termination. If any provision of this Order is determined by any regulatory or judicial body to be invalid, or in violation of any law, the remainder of the Order shall continue to be valid.

H. Termination. This Order shall remain in effect until January 1, 2010, unless the parties agree to continue the terms and conditions of this Order by written Notice to the Commission within Thirty Days prior to its termination.

I. Notice. Any notice or communication required or permitted to be given under this Order shall be deemed sufficient if it is delivered by hand delivery, mailed by certified mail, postage prepaid, return receipt requested, or sent by facsimile transmission to the addresses indicated below, or to other addresses furnished in writing by any party to all other parties.

City of Hardin
Po Box 324-County Road 2010
Hardin, Texas 77561-0324

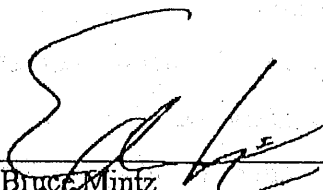
Hardin Water Service Corporation
Po Box 819
Hardin, Texas 77561

Issue Date: _____

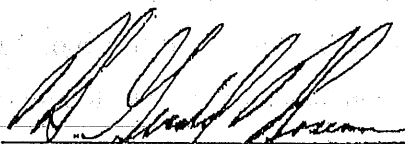
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

Kathleen Hartnett White, Chairman

AGREED AS TO FORM:



E. Bruce Mintz
Attorney for the City of Hardin, Texas



H. Gerald Hosemann
Attorney for the Hardin Water Supply Corp.